

LEGISLATIVE BUSINESS.

President : The next item on the agenda is Legislative Business.

THE TRAVANCORE HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

Mr. S. Piraviperumal Pillai : (*Commerce and Industry, South*) : Sir, I move that the Travancore Hindu Law of Inheritance (Amendment) Bill, as passed by the Sri Mulam Assembly, be taken up for consideration. In doing so I may inform the House that the present Bill is only a reproduction of Act II of 1929 which was originated in the Indian Legislative Assembly and passed as Act II of 1929. This Bill intends to bring into conformity the Law of Succession here with the above Act.

Mr. V. S. Arumukham Pillai : Sir, I second the motion.

President : Moved and seconded that the Travancore Hindu Law of Inheritance (Amendment) Bill, as passed by the Assembly, be taken into consideration.

Mr. M. N. Paramesvaran Pillai : Sir, in supporting the principle of the Bill, I wish to offer a few remarks. The object of the Bill seems to be to remove sex disqualification which excludes one's nearest female relations from inheritance. It purports to include in the list of limited heirs the son's daughter, daughter's daughter, sister and sister's son. But I do not know why the honourable member in charge of the Bill has omitted to include sister's daughter, who is also one of the nearest relations in the list of limited heirs. When he has included son's daughter, daughter's daughter, sister and sister's son in the group of limited heirs, I do not see any justification why he should have omitted sister's daughter. Further, there is yet another point which has also to be made clear in this Bill. As it is, there is no provision made in this Bill prescribing the order or rank in which these limited heirs should come in. For instance, a son may have several daughters and so also a daughter may have several daughters and so on ; but it is nowhere made clear how they should come in to share the inheritance. Then again, in the case of these female heirs, should there be a distinction between married and unmarried ? Further, by swelling the number of limited heirs, are we not indefinitely postponing the opening of the reversionary rights and thereby creating less interest in the proper performance of the obsequies ? I hope

the honourable member in charge of this Bill would make these points clear before this House is asked to pass this measure into law. If I am permitted, I wish to move an amendment to Clause 2 of the Bill so as to include sister's daughter also.

President : Have you given notice of the amendment?

Mr. M. N. Paramesvaran Pillai : No, Sir. The notice of this Bill itself was given to the members of this House only on the 15th when they assembled for the joint sitting.

President : Under the Standing Order is that not sufficient notice?

Mr. M. N. Paramesvaran Pillai : I submit that the Chair may show some latitude and permit me to move the amendment.

President : However we shall wait till we hear the other members.

Mr. V. S. Arumukham Pillai : Sir, I rise to support the motion. It is a fundamental principle of Jurisprudence that the law governing societies must be changing so as to be in conformity with the growing sentiments and changing ideas of the societies. Now, the principle, as could be seen from the statement of objects and reasons, is to give effect to the principle of consanguinity and propinquity which is the accepted principle both under the Mitakshara Law and in the British India Act II of 1929. Mr. M. N. Paramesvaran Pillai raised a question that there is no provision in this Bill for the sister's daughter. Now my answer to that question is that the communities following the Hindu Mitakshara Law here in Travancore have got their relations and have got their vested interests in British India and hence it is necessary that any piece of legislation passed in Travancore must be in conformity with that passed in British India, else if it is not in conformity with Act II of 1929, it is sure to be a source of hardship and trouble. This important piece of social legislation for the Hindu communities following the Mitakshara Law is a long felt necessity and therefore I appeal to the honourable members of this House to accept the Bill at the earliest opportunity and get it passed.

Mr. K. Sankaralingam Pillai : (*Kottarakara and Pattanapuram cum Shencotta*): I merely want to give my explanation as to why the proposed amendment alone is possible under the law. The daughter has already been recognised to be a heir even at present under the Hindu Law. Therefore no serious consequence would arise in the order of succession allotted to the son's daughter and daughter's daughter.

Mr. M. Govindan (Nominated) : What has the member to say about sister's daughter? That is the question.

Mr. K. Sankaralingam Pillai : Only daughter's have been recognised at present under the Hindu Law as heirs. This is only a very slight amendment to the order of succession of the sister's daughter. About the order of succession of the heirs, the Law as at present is quite clear in regard to women. So the difficulties that appeared to my friend do not exist. I therefore support the Bill.

President : It has already been met by the existing law. Is that your argument?

Mr. K. Sankaralingam Pillai : Yes, Sir.

Mr. M. Govindan : May I know from the member whether the sister's daughter is a heir under the existing law?

Mr. K. Sankaralingam Pillai : She is not.

Mr. M. Govindan : That is the difficulty.

Mr. G. Narayana Aiyar : Sir, this is a communal piece of legislation. It affects a large majority of the Hindus who follow the Mitakshara Law of Inheritance. It affects not only the Brahmins but the Vellalas, Carpenters, Pariahs and Pulayas who follow the Makkathayam. Generally communal legislation is taken up after due publicity and after knowing the sense or sentiment of the community and after giving sufficient time to the community to know whether the community is in favour of it or not. Although the Bill was originally published a few months ago, I submit that is not sufficient publication. In all such communal legislations such as the Nayar Regulation, the Christian Succession Regulation, committees were appointed by the Government to ascertain the sense of the community after giving them sufficient time for consideration. It is only after sufficient deliberation such pieces of legislation have been brought into effect. When we come to the question of the Hindu Law of Inheritance there are other difficulties also which have to be removed. Besides this piece of legislation other legislations such as Hindu Inheritance Removal of Disability Act, Hindu Disposition of Property Act, Gains of Learning Act, etc., as passed in British India have also to be taken up and considered here. Passing this piece-meal legislation would not serve the real purpose.

Then under the recognised principles of Hindu Law, the right to inherit is more or less coupled with the right to offer funeral oblations and obsequies. From the Bill as it stands none of the heirs especially the females have any authority to offer any sort of funeral oblations. They have the right under the provisions of the Bill to inherit the property but not the right to offer funeral oblations.

Mr. V. S. Arumukham Pillai : May I know from the member whether under the existing law persons who are not entitled to perform funeral oblations are recognised as heirs ?

Mr. G. Narayana Aiyar : There are cases, I admit that. What I submit is under the Hindu Religion as it is understood if the soul of the deceased is to rest in peace the oblations have to be performed and they could be performed only by the males that is the *Gnathies*. There may be a duty cast on them to perform the funeral rites. But the people who are to enjoy the property may be a different set of people or females as stated in the Bill. It may so happen that the deceased's funeral rites may not be performed by the *Gnathy* because he does not get the property of the deceased.

President : So his soul may not go to heavens ?

Mr. G. Narayana Aiyar : It may not.

Mr. V. S. Arumukham Pillai : Is it the member's opinion that the right to perform funeral oblations should alone determine the heirship of the deceased's estate ?

Mr. G. Narayana Aiyar : I never said that. That is one of the considerations along with various other considerations in passing a communal piece of legislation. The sentiment of the community has to be ascertained. There was not sufficient time to study in detail the provisions of the Bill and we should not pass it because it was passed in the Assembly very recently. As such I propose that the consideration of the Bill be postponed to some other Session of the Council.

President : Is this a social piece of legislation or a religious piece of legislation ?

Mr. G. Narayana Aiyar : It is a social piece of legislation. When similar pieces of legislation were introduced in the British Indian Legislature, the Provincial Governments were asked to ascertain the sentiment of the community which would be affected by the enactment and sufficient time was given. Each and every community cannot be represented in the Legislature. As such my submission is sufficient time must be given to ascertain the sentiment of the community. I do not know whether there was any agitation on the part of any community to pass such a Bill. No special community came forward and wanted this piece of legislation. Therefore there is no hurry about it. I would therefore propose that the consideration of this Bill be postponed so that all the facts may be studied in detail and a comprehensive discussion may be had over the matter.

President : So, your motion is that the consideration be postponed?

Mr. G. Narayana Aiyar : Yes, sir.

Mr. V. S. Arumukam Pillai : May I know from the member whether the cardinal principles under the Mitakshara Law itself are not the principles of consanguinity and propinquity and whether the principle of funeral oblations is insisted under the Mitakshara Law?

President : So far as I can understand from the honourable member I don't think that it should be examined once again with regard to its various provisions regarding Mitakshara Law and Dayabhaga Law. And what the member says is that this is a small piece of legislation. Therefore, the opinion of those whom the legislation should affect may be before the House. No such attempt has been made previously to get that opinion. There is no hurry to rush through this Bill without committing themselves for or against the measure. The only motion he makes is that the consideration of the Bill be postponed. That is all what I understand. And we shall not now enter into the questions of consanguinity, propinquity, Pindas, etc.,

Mr. S. Piraviperumal Pillai : Sir, all these points have been considered by the Select Committee and the Bill has been published subsequently.

Mr. Kochikal P. Balakrishnan Tampi : I rise to a point of order : Is it not out of order to refer to that Select Committee in this House?

President : Yes. This House refuses to co-operate with the other House. The point of order raised was whether this Bill which was considered by the Select Committee of the other House could be refused in this House.

Mr. S. Piraviperumal Pillai : Mr. Narayana Aiyar said that this Bill was not published sufficiently earlier. But I say that this Bill is the reproduction of Act II of 1929 which was already passed as an Act and it has been published in our Gazette four months ago, before it was referred to the Select Committee of the other House which considered all these questions and have come...

President : Let us not talk about the Select Committee at all.

Mr. M. N. Paramesvaran Pillai : But the Select Committee's Report has been given to us, Sir.

President : What the Select Committee considered and recommended, let that fact remain.

Mr. M. N. Paramesvaran Pillai : From the report submitted by the Select Committee I don't find that they have considered this aspect.

Mr. S. Piraviperumal Pillai: However, the motion of Mr. Narayana Aiyar is to refer this Bill to a future session, I leave it to the good sense of the House.

Mr. Kochikal P. Balakrishnan Tampi: Does the member think that this House is not giving a bad precedent for the Government to rush through a legislation?

Mr. S. Piraviperumal Pillai: I do not say that this is a mere reproduction of the original Bill. As a matter of fact, I have no objection in deferring the consideration of this Bill.

President: Do you say that you have no objection in postponing the consideration of this Bill?

Mr. S. Piraviperumal Pillai: No, Sir.,

The motion was put to vote and carried.

The consideration of the Bill was postponed.

THE TRAVANCORE JENMI AND KUDIYAN REGULATION (AMENDMENT) BILL.

Mr. K. N. Kesavan Namputiripad: This Jenmi and Kudiyan Regulation (Amendment) Bill was sent to the Secretary to the Council a few months back when according to the original programme this meeting ought to have taken place in November.

The Bill is intended to extend the period for filing suits for arrears of Michavaram. It was my intention, at least, to introduce it before the period had actually expired. But due to unavoidable circumstances and due to the ill-luck of the Jenmies the meeting of the Council was postponed and hence I could not introduce it in the Council as I originally intended.

Mr. M. N. Paramesvaran Pillai: Is it not in the competence of this House to give a retrospective effect and consider this Bill?

Mr. K. N. Kesavan Namputiripad: Yes. Meanwhile the Jenmies were not remaining inactive and they made use of the time available to them. Now the attempt to extend the period which has already expired does not seem to me proper and it will be just like writing the horoscope of a dead child.

Mr. G. Narayana Aiyar: Was not retrospective effect given to some provisions of the Regulation?

Mr. K. N. Kesavan Namputiripad: Yes. But I don't think it is possible here. Anyhow, I take this opportunity to inform the Council that by reducing the period from 12 years to six years to file suits for the arrears of Michavaram The Jenmies have sustained a heavy loss. But I don't think that this is the occasion to narrate the loss of the Jenmies.

Mr. M. N. Paramesvaran Pillai: May I know from the member whether there is a bar even under the existing Regulation?